

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE CINCINNATI SMSA )  
LIMITED PARTNERSHIP FOR THE ISSUANCE OF A )  
CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY TO CONSTRUCT A NEW CELL FACILITY ) CASE NO. 93-254  
FOR ITS DOMESTIC PUBLIC CELLULAR RADIO )  
TELECOMMUNICATIONS SERVICE IN FALMOUTH, )  
KENTUCKY, IN KENTUCKY RSA 7 )

O R D E R

On September 7, 1993, Cincinnati SMSA Limited Partnership ("Cincinnati SMSA") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 7 ("RSA No. 7"). RSA No. 7 includes Carroll, Franklin, Gallatin, Grant, Harrison, Henry, Owen, Pendleton, Shelby, and Trimble counties. Cincinnati SMSA has requested authorization to construct a cell site in Pendleton County. Cincinnati SMSA was previously granted authority to operate a cellular radio telecommunications system in RSA No. 7 in Case No. 91-245.<sup>1</sup>

The proposed cell site consists of a 280-foot or less self-supporting antenna tower to be located approximately 5500 feet east-northeast of the intersection of State Route 22 and U. S. Route 27, Falmouth, Kentucky ("the Falmouth cell site"). The

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<sup>1</sup> Case No. 91-245, Application of the Cincinnati SMSA Limited Partnership for the Issuance of a Certificate of Public Convenience and Necessity to Construct a New Cell Facility for its Domestic Public Cellular Radio Telecommunications Service in Williamstown, Kentucky in the B2 Portion of Kentucky RSA 7.

coordinates for the Falmouth cell site are North Latitude 38° 40' 00" by West Longitude 84° 18' 46".

Cincinnati SMSA has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Falmouth cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International, Inc. National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Falmouth cell site's construction is exempt from local zoning ordinances. Cincinnati SMSA has filed an application with and received approval from the Kentucky Airport Zoning Commission, while an application with the Federal Aviation Administration ("FAA") is still pending.

Cincinnati SMSA has filed notices verifying that each property owner or resident within 500 feet of the Falmouth cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. To date, no intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Cincinnati SMSA should notify the Commission if

it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including the removal of the unused antenna tower, which should be observed by Cincinnati SMSA.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Cincinnati SMSA should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed cell site in RSA No. 7 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Cincinnati SMSA be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the proposed Falmouth cell site consisting of a 280-foot or less self-supporting antenna tower to be located approximately 5500 feet east-northeast of the intersection of State Route 22 and U. S. Route 27, Falmouth, Pendleton County, Kentucky. The coordinates for the proposed Falmouth, cell site are North Latitude  $38^{\circ} 40' 00''$  by West Longitude  $84^{\circ} 18' 46''$ .

2. Cincinnati SMSA shall file a copy of the final decision regarding its pending FAA application for the Falmouth cell site within 10 days of receiving this decision.

3. Cincinnati SMSA shall immediately notify the Commission in writing, if, after the antenna tower is built and utility

service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 4th day of November, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director